IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 27011 of 2003(N)

PETITIONER:

P.K.SAMUEL, READER GRADE - II,
GOVERNMENT CENTRAL PRESS, TRIVANDRUM-1,
(RESIDING AT T.C. 8/936, THIRUMALA P.O.,
TRIVANDRUM-6)

BY ADV. SRI.T.K.MARTHANDAN UNNITHAN
SRI.K.P.UNNIKRISHNAN

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVT. OF KERALA, TRIVANDRUM

2. THE SECRETARY, HIGHER EDUCATION (H)
DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM

3. DIRECTOR OF PRINTING, GOVERNMENT
CENTRAL PRESS, TRIVANDRUM

BY GOVERNMENT PLEADER SRI.V.T.K. MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/07, THE COURT ON 29/03/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1 GOVT. ORDER DT 17.1.91.

P2 ORDER DT 12.8.91 ISSUED BY R3.

P3 CIRCULAR DT 29.3.94 ISSUED BY THE DIRECTOR OF PRINTING GOVERNMENT CENTRAL PRESS TRIVANDRUM.

P4 PROCEEDINGS DT 30.4.97 ISSUED BY THE DIRECTOR OF PRINTING.

P5 REPRESENTATION DT 20.5.98 SUBMITTED BEFORE R3.

P6 ORDER DT 26.4.01 ISSUED BY R3.

P7 REPRESENTATION DT 29.11.01 SUBMITTED BY THE PETITIONER BEFORE R1.

P8 REPRESENTATION DT 19.7.02 SUBMITTED BEFORE R3.

P9 JUDGMENT DT 5.4.00 IN OP.6674/91.

P10 JUDGMENT DT 11.9.02 IN WA.1510/00.

P11 PROCEEDINGS DT 25.8.94 ISSUED BY THE DIRECTOR OF PRINTING.

P11(A) FINAL GRADATION LIST RELATING TO COPY HOLDERS.

P12 COMMON JUDGMENT DT 20.3.03 IN OP.17939/01.

P13 REPRESENTATION DT 11.6.03 SUBMITTED BEFORE DIRECTOR OF PRINTING.

P14 ORDER DT 8.7.03 PASSED BY THE DIRECTOR OF PRINTING.

P15 PROCEEDINGS DT 18.7.03 ISSUED BY THE DIRECTOR OF PRINTING.

P16 G.O. DT 2.1.61.

P17 PROCEEDINGS DT 28.4.91 ISSUED BY DIRECTOR OF PRINTING.

P18 G.O. DT 25.11.95.

TRUE COPY

P.A. TO JUDGE

A.K. BASHEER, J.

W.P.(C). NO. 27011 OF 2003

Dated this the 29th day of March, 2007

J U D G M E N T

The short question that arises for consideration is whether by inter district transfer petitioner would lose his seniority and also whether he is liable to be placed as the juniormost in the entry cadre in the transferred District.

2. Petitioner had entered service in the Printing and Stationary Department as a Copy Holder. Petitioner was initially appointed in the Government Press at Ernakulam in the year 1988. According to the petitioner, a common seniority list was published and maintained State-wise, though he was appointed through the District Recruitment Board of Kerala Public Service Commission, Ernakulam. It is the admitted position that the petitioner had been granted inter district transfer to Thiruvananthapuram in the year 1989 initially. Thereafter, he was transferred back to Ernakulam after the expiry of his leave without allowance for five years. In the meanwhile, petitioner was posted at Thiruvananthapuram in the year 1992 and transferred to Ernakulam in 1993. Later in 1994 he was

transferred to Thiruvananthapuram. While so, on March 13, 1995, he was transferred to Vazhoor in Kottayam District.

3. The grievance of the petitioner is that in the seniority list, a copy of which is on record as Ext.P15, his date of entry in service has been shown as March 13, 1995 in the category of Copy Holder. The said date is the date of transfer from Thiruvananthapuram to Vazhoor. It is contended by the petitioner that the Department was not justified in showing his date of entry in the seniority list as March 13, 1995, though actually he had entered service in 1988. Learned counsel places heavy reliance on Ext.P10 judgment rendered by a Division Bench of this Court and contends that Exts.P6, P14 and P15 orders are totally against the directions contained in the judgment.

4. I have carefully perused Exts. P6, P14 and P15 orders. There is considerable force in the contention raised by the petitioner that respondent No.3 has committed serious illegality in assuming that the petitioner had lost his seniority because of the inter district transfer. The Division Bench in Ext.P10 judgment while dealing with the case of some of the employees of the same Department had held that on inter district transfer

the employee would be placed as juniormost in the category concerned. The Division Bench further observed thus:

> *"Therefore they will be junior in that unit, in that cadre, on the date of transfer and their seniority has to be fixed accordingly. But the joining date in the transferred unit cannot be taken as the date they entered in service."*

5. A perusal of the counter affidavit also shows that the above aspect has not been properly considered or dealt with at all. It is the specific case of the petitioner that there were no other seniors in Kottayam at the time when he was transferred in March 1995 to that unit. Therefore, the contention raised by the petitioner that merely because of his transfer, even assuming it was on the request, would result in losing his entire seniority in service.

6. In my view, these and other contentions raised by the petitioner have to be necessarily reconsidered by respondent No.3. Therefore, Exts. P6, P14 & P15 are quashed. Respondent No.3 shall take a fresh decision in the matter after affording sufficient opportunity to the petitioner and all those who are likely to be affected in the process. This shall be done as expeditiously as possible, at any rate, within a period of three

months from the date of receipt of a copy of this judgment.

7. Petitioner has raised a further contention that non-implementation of 2:2:1 ratio in the Reading Section in the Department till 1995 has resulted in manifest, illegality and injustice to the employees, like the petitioner, working in that Section. It is the case of the petitioner that there was no justification in excluding Reading Section while implementing the above ration in other Sections like Binding, Printing, Computing and Composing in the year 1991 itself. Petitioner has invited my attention to Exts.P4 and P17 in this connection and contended that the grievance of employees like the petitioner has not yet been redressed by the Government. He also refers to Ext.P18 communication sent by the Government to respondent No.3 expressing anxiety about the delay in non-implementation of the ratio.

In my view, these are all matters which have to be necessarily brought to the notice of the Government by the petitioner. I am persuaded to take this view since there are no specific pleading to this effect in this writ petition. However, I make it clear that it will be open to the petitioner to submit a

representation in this regard, if so advised, before the appropriate authority. If such a representation is received by respondent No.1, within a period of one month from the date of receipt of a copy of this judgment, the same shall be considered strictly on its merit and in accordance with law and appropriate decision shall be taken thereon as expeditiously as possible, at any rate, within a period of four months from the date of receipt thereof.

The writ petition is disposed of with the above direction.

A.K. BASHEER, JUDGE

vps

KURIAN JOSEPH, JUDGE

OP NO.

JUDGMENT

21st DECEMBER, 2006